<center>**REMARKS**</center>

The enclosed is responsive to Examiner's Office Action mailed on January 8, 2008. At the time Examiner mailed the Office Action claims 1, 2, 4-8 and 10-20 were pending. By way of the present response Applicant has: 1) amended claims 1, 5, 7, 12, 15, 16, 17, 19 and 20; 2) added no new claims; and 3) canceled no claims. As such, claims 1, 2, 4-8 and 10-20 remain pending. Applicants respectfully request reconsideration of the present application and the allowance of all claims now presented. Applicant submits that new matter has been added with the amendments.

I.   Claim Objections

Claim 16, 17, 19 and 20 are objected to. Applicant has amended the claims and respectfully requests reconsideration and withdrawal of the claim objections.

II.   Claim Rejections – 35 U.S.C. § 112

Claims 5 and 11 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which application regards as the invention. Applicant has amended the claims and respectfully requests reconsideration and withdrawal of the claim rejections.

III.   Claim Rejections – 35 U.S.C. § 101

Claims 15-20 are rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. Applicant has amended the claims and respectfully requests reconsideration and withdrawal of the claim objections.

IV.   Claim Rejections – 35 U.S.C. § 103

Claims 1, 2, 4-8, and 10-20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U. S. Patent Publication No. 2007/0124794 to Marko, et al., (hereinafter "Marko") in view of U. S. Patent No. 5,559,991 to Kanfi (hereinafter "Kanfi").

a. Independent claims 1, 7, 12 and 15

The Office Action has rejected claims 1, 7, 12 and 15 as being unpatentable over Marko in view of Kanfi. Applicant has amended the claims and respectfully requests withdrawal of the claim rejections. To succeed in establishing a prima facie case of obviousness, the combination cited by the Office Action must teach or fairly suggest each limitation recited in the claims. Applicant submits that the cited combination of Marko in view of Kanfi at least fails to disclose the following italicized limitations contained in exemplary claim 1 as amended:

1.   (Currently Amended) A computer implemented method for storing data comprising:

receiving a composite data stream from a server;

storing the received composite data stream so that it may be restored to the server, said storing including,

decomposing the composite data stream into a plurality of constituent data streams;

segmenting at least one of the plurality of constituent data streams decomposed from the composite data stream;

comparing segments resulting from the segmenting to determine those segments already stored as a result of storing a previous one of said plurality of composite data streams; and

discarding those of the segments which are determined to have been stored previously.

Applicant submits that support for the claim amendment can at least be found in Applicant's specification at paragraphs [0005] and [0048] referring to a backup system operable to backup and restore data for backup clients residing on different computers of a local area network. It is well-known in the art that backup systems store data so that the data may be restored back to its original source (i.e., backup server and/or backup clients) when needed.

With respect to the limitation, "storing the received composite data stream so that it may be restored to the server," each of claims 1, 7, 12, 15 and 20 recite a limitation regarding storing the received composite data stream so that it may be restored to the server. As a result, claim 1 will be discussed as an example of this limitation. The Office Action cites Marko, paragraph [0027]. See Office Action, p. 6. The Office Action indicates that the stored data is restored through "playback" of the data to an output device such as a loudspeakers,

display or monitor. See Marko, paragraph [0028]. However, Applicant submits that the Marko reference fails to teach or fairly suggest Applicant's amended limitation, "storing the received composite data stream so that it may be restored to the server," because the Office Action equates Marko's programming center 20 to Applicants "server" (see e.g., Office Action, p. 6) and the composite data stream in Marko is never restored back to the programming center 20. Not only that, but Applicant submits that the cited sections of Marko expressly teach away from Applicant's amended limitation because in Marko the received composite data stream is restored by playing it through an output device located at the destination (receiver) of the composite data stream, whereas Applicant's claims recite restoring the data back to the server which is the source (transmitter) of the original composite data stream. Thus, Applicant submits that the Marko reference teaches away from Applicant's claimed invention and under MPEP § 2145, a prior art reference that "teaches away" from the claimed invention is a significant factor to be considered in determining obviousness.

Thus, Applicant believes that the cited sections of Marko fail to teach storing the received composite data stream so that it may be restored to the server. Therefore, Applicant does not believe the cited combination teaches or suggests each limitation recited in Applicant's amended claim 1. If the Office Action maintains this rejection, it is respectfully requested that the Office Action clearly explain or indicate where in the cited references this limitation is taught. Specifically, Applicant respectfully requests the Office Action to clearly explain how the composite data stream in the cited references is restored back to the

originating server. Accordingly, reconsideration and withdrawal of the claim rejections is respectfully requested as well as withdrawal of the rejections of the associated dependent claims.

CONCLUSION

Applicant respectfully submits that all rejections have been overcome by the remarks and that all pending claims are in condition for allowance. Accordingly, Applicant respectfully requests withdrawal of the claim rejections.

Invitation for a telephone interview

If a telephone conference would facilitate the prosecution of this application, Examiner is invited to contact Matt Hindman at (408) 720-8300. If there are any additional charges, please charge them to our Deposit Account Number 02-2666 for any fee deficiency that may be due.

Respectfully Submitted,
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Date: __**February 25, 2008**__   ___**/Matthew W. Hindman/**_____

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